



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed November 2, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Crawford County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 15, 2015.

The issue for determination is whether the following Claim can be established against petitioner for overpayments of MA: Claim Number [REDACTED]; December 2014 to February 2015; \$1,131.86.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], ESS

Crawford County Department of Human Services
225 N Beaumont Rd., Suite 326
Prairie Du Chien, WI 53821

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

[REDACTED]

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Crawford County, Wisconsin.
2. The County established the following Claim against petitioner for overpayments of MA: Claim Number [REDACTED]; December 2014 to February 2015; \$1,131.86.
3. On October 10, 2014 petitioner reported to the County that she had new employment at [REDACTED]; the projected income provided by petitioner would have closed her MA; petitioner's case was pended for verification of income; petitioner requested that the verification request be sent directly to [REDACTED]
4. On October 22, 2014 [REDACTED] provided verification of petitioner's income directly to the County; the income verification provided by [REDACTED] was not correct because it was too low.
5. On October 23, 2014 a notice of decision was mailed to petitioner with the incorrect income on it that was provided by [REDACTED] which was \$956 per month; that notice of decision informed petitioner that she was enrolled in MA and that she must report if her income exceeded \$972.50 per month; after receiving the notice of decision petitioner failed to report her income even though it exceeded \$972.50 per month.
6. The MA overpayments in *Findings of Fact #2*, above, resulted from the fact that the entire income of petitioner's household was not budgeted when calculating MA eligibility during the time periods in question; petitioner's entire income was not budgeted both because [REDACTED] reported incorrect income and because, after receiving the October 2014 notice of decision, petitioner failed to report her income even though it exceeded \$972.50 per month.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits; or,
- C. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

[REDACTED]

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* [“MEH”] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

For an MA overpayment, member error exists when an applicant, member, or any other person responsible for giving information on the member’s behalf, unintentionally misstates (financial or nonfinancial) facts, which results in the member receiving a benefit that he or she is not entitled to or more benefits than he or she is entitled. MEH 22.2.1.1.1.

In this case the MA overpayment claim exists because petitioner’s entire income was not budgeted. Her entire income was not budgeted both because [REDACTED] reported incorrect income and because, after receiving the October 2014 notice of decision, petitioner failed to report her income even though it exceeded \$972.50 per month. This fits within the legal criteria for an MA overpayment (detailed above). Therefore, the MA overpayments listed in *Findings of Fact #2*, above, must be affirmed.

Petitioner argues, very understandably, that she reported her correct income, that the MA overpayments are not her fault, and that the County should have made further inquiry when the income reported by [REDACTED] did not match the income she had reported. All of this might be correct. However, in accordance with the law outlined above, an MA overpayment Claim still exists and must be affirmed.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is liable for the MA overpayment Claim detailed in *Findings of Fact #2*, above, and must repay it.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision

as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

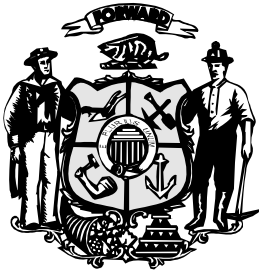
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of
Madison, Wisconsin, this 12th day of
January, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 12, 2016.

Crawford County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability